



सत्यमेव जयते

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

## PART V

### Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

### THE GUJARAT SECONDARY AND HIGHER SECONDARY EDUCATION (AMENDMENT) BILL, 2021.

#### GUJARAT BILL NO. 14 OF 2021.

#### A BILL

*further to amend the Gujarat Secondary and Higher Secondary  
Education Act, 1972.*

It is hereby enacted in the Seventy-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Secondary and Higher Secondary Education (Amendment) Act, 2021.

Short title and  
commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment  
of section 2 of  
Guj. 18 of  
1973.

2. In the Gujarat Secondary and Higher Secondary Education Act, 1972, (hereinafter referred to as “the principal Act”), in section 2, in clause (q), for the words “Director of Education, Gujarat State, or an officer authorised by him”, the words “Education Department or, as the case may be, any other Department of the Government of Gujarat or an officer authorized by such Department” shall be substituted.

Guj. 18  
of 1973.

Amendment  
of section 36  
of Guj. 18 of  
1973.

3. In the principal Act, in section 36, in sub-section (5), for the words “the Tribunal”, the words and figures “the Gujarat Educational Institutions Services Tribunal constituted under section 3 of the Gujarat Educational Institutions Services Tribunal Act, 2006” shall be substituted.

Guj. 20 of  
2013.

Substitution  
of section 40A  
of Guj. 18 of  
1973.

4. In the principal Act, for section 40A, the following section shall be substituted, namely:-

Savings. “40A. Notwithstanding anything contained in this Act, sub-section (1) of section 34, and clause (b) of sub-section (1) and sub-sections (2), (3), (4) and (5) of section 36 shall not apply to any educational institutions established and administered by a minority, whether based on religion or language.”.

### STATEMENT OF OBJECTS AND REASONS

As per the provisions of the Gujarat Secondary and Higher Secondary Education Act, 1972 (Guj. 18 of 1973), the Gujarat Secondary and Higher Secondary Education Board is constituted so as to regulate the Secondary and Higher Secondary Education in the State. The Board conducts the certificate examination for both the Secondary School (*i.e.* 10<sup>th</sup> standard) and Higher Secondary School (*i.e.* 12<sup>th</sup> standard). The Board grants registration to the schools and grants permission to open new school in the State also. Moreover, the Board enjoys the powers and performs the duties as enumerated in section 17 and section 18 of the said Act.

Clause (q) of section 2 of the said Act provides for the definition of “recognised school” which means a secondary school or a post basic school recognized by the Director of Education, Gujarat State amongst others. Nowadays, new schools are opened by the Education Department as also by the other Departments such as the Social Justice and Empowerment Department, the Tribal Development Department, *Samagra Shikshan Abhiyan* in the State. Therefore, a suitable amendment is proposed in said clause (q). *Clause 2* of the Bill provides for the same.

The Gujarat State Legislature has enacted the Gujarat Educational Institutions Services Tribunal Act, 2006 (Guj. 20 of 2013) so as to bring about uniformity amongst all laws relating to the Educational Tribunals and to provide for the constitution of a tribunal *i.e.* the Gujarat Educational Institutions Services Tribunal for the purpose of determining disputes relating to conditions of service of the members of the teaching and non-teaching staff of the educational institutions in the State. Existing section 36 of the said Act of 1973 provides for the procedure for dismissal, removal and reduction in rank of certain persons of the registered private Secondary School or registered private Higher Secondary School and also provides for an appeal against the order of the authorised officer to the Tribunal by the aggrieved person under sub-section (5) of said section 36. Now, as the Gujarat Educational Institutions Services Tribunal has already been constituted under section 3 of the said Act of 2013, it is, therefore,

considered necessary to make suitable amendment in sub-section (5) of section 36 of the said Act of 1973. *Clause* 3 of the Bill provides for the same.

The Supreme Court in the matter of T.M.A. Pai Foundation & Ors vs. State of Karnataka & Ors 2002 (8) SCC 481 has held that so far as minority institutions are concerned, the academic standard cannot be lowered in any manner. Regulations can be framed governing service conditions for teaching and other staff of minority educational institutions where the aid is provided by the State without interfering with overall administrative control of the management over the staff. Accordingly, section 40A of the said Act is proposed to be substituted. *Clause* 4 of the Bill provides for the same.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

**BHUPENDRASINH CHUDASAMA,**

**MEMORENDUM REGARDING DELEGATED LEGISLATION**

This Bill involves the delegation of legislative power in the following respects:-

***Clause 1.-*** Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Dated the 23<sup>rd</sup> March, 2021.

**BHUPENDRASINH CHUDASAMA.**

By order and in the name of the Governor of Gujarat,

**K. M. LALA,**

Gandhinagar.

Dated the 24<sup>th</sup> March, 2021.

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

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